

### **Remarks/Arguments**

In the Office Action dated October 24, 2006, the Examiner: (1) allowed claims 1-4, 47-49 and 58; (2) rejected claims 5-11, 51-53, 55-57 and 59-60 under 35 U.S.C. § 101 as being directed to non-statutory matter; and (3) rejected claims 5-8, 51-53 and 59 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enable requirement.

In this Response, Applicants amend claims 9-11, 55-57 and 60. Claims 1-11, 47-49, 51-53 and 55-60 are pending. Based on the amendments and arguments presented herein, Applicants respectfully request reconsideration and allowance of the pending claims.

#### **§ 101 REJECTIONS**

The Examiner rejected claims 5-11, 51-53, 55-57 and 59-60 under 35 U.S.C. § 101 as being directed to non-statutory matter.

In relation to claims 9-11, 55-57 and 60, the Examiner rejected the claims as being directed to a "computer program product" and not "a computer readable medium". Claims 9-11, 55-57 and 60 have been amended to recite "a computer readable medium" as suggested by the Examiner. Applicants submit that no new matter is introduced by these amendments. For at least these reasons, Applicants respectfully request that the rejection of claims 9-11, 55-57 and 60 under 35 U.S.C. § 101 be withdrawn and the claims set to issue.

In relation to claims 5-8, 51-53 and 59, the Examiner rejected the claims as being directed to a non-statutory computer program and not an apparatus. Applicants disagree since the claims clearly recite an apparatus. The apparatus claims are supported at least by page 7, lines 13-23 and pages 20-21 of the specification, which explicitly discloses that the invention may be implemented in a computer, in hardware modules, in software modules or a combination thereof. Even if the means plus function limitations of the apparatus claims were to be interpreted as including software, the means would also include any processor and storage medium necessary for the software implementation (see page 20, lines 5-18). Thus, the apparatus claims are statutory even if software, hardware, or a combination thereof is being implemented.

More particular, it is clearly disclosed that "in the hardware sense, a module is a functional hardware unit designed for use with other components or modules. For example, a module may be implemented using discrete electronic components, or it can form a portion of an entire electronic circuit such as an Application Specific Integrated Circuit (ASIC). Numerous other possibilities exist. Those skilled in the art will appreciate that the system can also be implemented as a combination of hardware and software modules." Thus, Applicants' specification discloses other means for implementing the claimed limitations, other than just a computer program. Applicants' specification also discusses processors, computer readable mediums, disk drives, and communication interfaces in connection with embodiments. For at least these reasons, Applicants respectfully request that the rejection of claims 5-8, 51-53 and 59 under 35 U.S.C. § 101 be withdrawn and the claims set to issue.

#### **§ 112 REJECTIONS**

The Examiner rejected claims 5-8, 51-53 and 59 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The apparatus claims are supported at least by page 7, lines 13-23 and pages 20-21 of the specification, which explicitly discloses that the invention may be implemented in a computer, in hardware modules, in software modules or a combination thereof. Even if the means plus function limitations of the apparatus claims were to be interpreted as including software, the means would also include any processor and storage medium necessary for the software implementation (see page 20, lines 5-18). Thus, the apparatus claims are enabled even if software, hardware, or a combination thereof is being implemented. More particular, it is clearly disclosed that "in the hardware sense, a module is a functional hardware unit designed for use with other components or modules. For example, a module may be implemented using discrete electronic components, or it can form a portion of an entire electronic circuit such as an Application Specific Integrated Circuit (ASIC). Numerous other possibilities exist. Those skilled in the art will appreciate that the system can also be implemented as a combination of hardware and software modules." Applicants' specification also discusses processors, computer readable mediums, disk drives, and communication interfaces in connection with

embodiments. Applicants' disclosure would enable one of ordinary skill in the art to make and use the claimed invention. For at least these reasons, Applicants respectfully request that the rejection of claims 5-8, 51-53 and 59 under 35 U.S.C. § 112, first paragraph, be withdrawn and the claims set to issue.


## CONCLUSIONS

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art which have yet to be raised, but which may be raised in the future.

If any fees or time extensions are inadvertently omitted or if any fees have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769 and enter any time extension(s) necessary to prevent this case from being abandoned.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

  
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